

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UMB BANK, NATIONAL ASSOCIATION, AS
TRUSTEE,

Plaintiff,

v.

BLUESTONE COKE, LLC F/K/A ERP COMPLIANT
COKE, LLC,

THOMAS M. CLARKE

and

ANA M. CLARKE,

Defendants.

Case No. 20-CV-2043

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1. I make this affidavit in support of the Notice of Removal of Defendant, Bluestone Coke, LLC f/k/a ERP Compliant Coke, LLC ["Bluestone Coke"], based on my personal knowledge. If called upon to do so, I would testify to the following facts.

2. I am Hunter Naff, I am Associate General Counsel for Bluestone Coke. I am a resident of the State of Virginia and have been at all times relevant to the above-captioned action.

3. On February 6, 2020, Plaintiff UMB Bank, National Association, as Trustee, Collateral Agent, Paying Agent, Registrar and Calculation Agent ["UMB Bank"] filed its Motion For Summary Judgment In Lieu Of Complaint Under CPLR § 3213 ["Motion"] in the Supreme Court of the State of New York, New York County, captioned as *UMB Bank, national*

association, As Trustee v. Bluestone Coke, LLC f/k/a ERP Compliant Coke, LLC, Index No. 650854/2020.

4. On February 17, 2020, Bluestone Coke accepted a copy of the Summons and Motion.

5. This Notice of Removal is being filed within thirty days of Bluestone Coke's receipt of the Summons and Motion, as required by 28 U.S.C. § 1446(b).

6. UMB's Motion does not allege its state of citizenship.

7. UMB is a national bank. *See*, UMB's Articles of Association, attached hereto as **Exhibit 1**.

8. Upon information and belief, UMB's Articles of Association designates Kansas City, MO as the location of its main office. *Id.* at 1.

9. UMB's Motion does not allege the state of citizenship for Defendants Thomas Clarke and Ana Clarke.

10. At the commencement of UMB's action, Defendants Thomas Clarke and Ana Clarke were citizens of Virginia.

11. UMB Bank's summons identifies 192 Summerfield Court, Suite 203 Roanoke, VA 24019 as the address for service of Defendants Thomas Mathew Clarke ["Thomas Clarke"] and Ana Mercedes Clarke ["Ana Clarke"]. [Summons, at 2] [Ex. A to Bluestone Coke's Notice of Removal].

12. On March 1, 2020, an Intelius.com "skip trace" was performed on Defendants Thomas Clarke and Ana Clarke. True and accurate copies of the "skip trace" searches performed on Defendants, Thomas Clarke and Ana Clarke are attached hereto as **Exhibit 2** and **Exhibit 3**, respectively.

13. The skip trace report for Thomas Clarke identifies his current residence as 16620 Lee Hwy, Buchanan, VA 24066. [Ex. 2, at 1]

14. The skip trace report for Thomas Clarke identifies several Virginia residences that he has occupied since 2006. *Id.* at 2,

15. The skip trace report for Thomas Clarke identifies his current landline telephone number as 540-254-1010. “504” is a Virginia area code. *Id.* at 1. It also identifies that he has had several Virginia telephone numbers since 1980. *Id.* at 4.

16. The skip trace report for Ana Clarke identifies her current residence as 16620 Lee Hwy, Buchanan, VA 24066. [Ex. 3, at 1]

17. The skip trace report for Ana Clarke identifies several Virginia residences that she has occupied since 2007. *Id.* at 2

18. The skip trace report for Ana Clarke identifies her current landline telephone number as 540-254-1010. “504” is a Virginia area code. *Id.* at 1. It also identifies that she has had several Virginia telephone numbers since 2007. *Id.*, at 3.

19. As of March 2, 2020, Kissito Healthcare’s webpage identifies Defendant Thomas M. Clarke as the Founder of Kissito and the current Director and President. The Kissito webpage further states that “Tom, his wife Ana, son Samuel and daughters Annasophia and Amelia enjoy the beauty of the Blue Ridge Mountains on their farm outside of Roanoke.” <http://www.kissito.org/governance-leadership/tom-clarke-msb-lnha/>

20. In *Cliff’s Natural Resources, Inc. v. Seneca Resources*, No.17-567-GAM (D. Delaware 2018), Plaintiffs’ proposed Fourth Amended Complaint identified both Defendants Thomas Clarke and Ana Clarke—who were defendants in that litigation—as Virginia citizens,

residing at 16620 Lee Hwy, Buchanan, VA 24066. [Doc. 267]. See also <https://images.law.com/contrib/content/uploads/documents/394/2127/Cliffs-Amend.pdf>

21. In the *Cliff's Natural Resources* litigation, both Defendants Thomas Clarke and Ana Clarke filed Answers identifying that they were “citizens of Virginia and/or North Carolina. [Docs 18-19].

22. Defendant Thomas Clarke is widely reported as being a “Virginia billionaire” whose home is in Virginia. See <https://www.bloomberg.com/news/features/2018-03-21/what-s-a-nursing-home-operator-doing-running-an-iron-mine>; <https://kemmerergazette.com/article/businessman-blames-creditors-for-mine-purchase-failure>; <https://mountainwestnews.org/fish-on-the-brink-f7df9fd840d6>; https://trib.com/business/energy/environmentalist-coal-executive-behind-bid-for-kemmerer-mine/article_1684af19-ebf0-5c5a-9625-093efa482234.html.

23. Defendant Bluestone Coke, LLC f/k/a ERP Compliant Coke, LLC is a limited liability company that was formed in Delaware and that has Birmingham, AL as its principal place of business.

24. Bluestone Mineral, Inc. [“Bluestone Mineral”] is the sole member of Bluestone Coke.

25. Bluestone Mineral, Inc. is a Delaware corporation with Roanoke, VA as its principal place of business.

26. According to his counsel, Thomas Clarke has been served Summons and the Motion.

27. Thomas Clarke’s counsel represented that he consented to Bluestone Coke’s removal of UMB Banks’s cause of action.

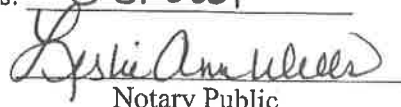
28. Thomas Clarke's counsel has further represented that Thomas Clarke shall file in this Court an unequivocal consent to Bluestone Coke's removal of UMB Bank's cause of action.


Hunter Naff

State of Virginia, County of Roanoke :

The forgoing Affidavit was subscribed and sworn to me by HUNTER NAFF, in his capacity of Associate General Counsel for Bluestone Coke, LLC on this 6th day of March 2020.

My commission expires: 5-31-2021


Notary Public

